



FEB 14 2006

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

7784-000397

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on 2/14/06

Signature

Typed or printed name Mark D. Elchuk
Erica K. Schaefer

Application Number

10/087,583

Filed

February 28, 2002

First Named Inventor

William J. Purpura

Art Unit

2613

Examiner

Gims S. Philippe

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

attorney or agent of record.
Registration number 33,686 (MDE)
55,861 (EKS)

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

Mark D. Elchuk / Erica K. Schaefer

Typed or printed name

(248) 651-1600

Telephone number

2/14/06

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.



*Total of One forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/087,583

Filing Date: February 28, 2002

Applicant: William J. Purpura

Group Art Unit: 2613

Examiner: Gims S. Philippe

Title: HIGH RISK PERSONNEL REAL TIME MONITORING
SUPPORT APPARATUS

Attorney Docket: 7784-000397

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PRE-APPEAL STATEMENT AND REQUEST FOR REVIEW

OVERVIEW

Applicant respectfully submits that there is at least one clear error in the Final Office Action mailed November 28, 2005. First, none of the references cited by the Examiner teach or suggest the use of a monitoring apparatus including a heads-up display, as recited in Claim 1. Secondly, none of the references teach or suggest a monitoring apparatus including an alarm activated upon entry into an unauthorized area, as recited in Claim 12. Accordingly, Applicant asserts that the Examiner's final rejection is based on clear error as one or more of the recited elements in the claims is missing from the cited prior art. The cited art, as previously characterized in Applicant's Responsive Amendment of July 6, 2005, pages 6-10, and Applicant's Response of October 12, 2005, pages 3-5, does not teach or fairly suggest a heads-up display for displaying a set of data transmitted thereto by a controller or the use of an alarm

activated upon entry to an unauthorized area as claimed in Applicant's application. Thus a *prima facie* case for a rejection has not been made.

DISCUSSION OF REFERENCES

First, Applicant respectfully asserts that the term "heads-up display," as known in the art, denotes a transparent display element 34 (as shown in Figures 1 and 2 of Applicant's application as filed) which displays (i.e., projects) information in the user's line of sight. One key characteristic of present day heads-up display systems is that the information being displayed is generally displayed at or near infinity, such that the user does not have to re-focus his eyes when switching between viewing the information and the user's primary field of view. Applicant respectfully asserts a heads-up display is not taught or suggested whatsoever by the cited art.

Pending Claims 1, 3-5, 7, 14, and 16-17 were rejected under 35 U.S.C. § 102(e) in view of Ito et al. (U.S. Pat. No. 6,244,015; hereinafter "Ito"). However, in Ito, there is no discussion or suggestion of using a heads-up display whatsoever, let alone a heads-up display in connection with the other limitations of the system recited in Claim 1. Ito only deals with using a portable monitor TV coupled to the non-dominant arm of the worker (see at least Column 4, lines 52 through 54, Column 13, lines 26 through 20 and Column 8, lines 23 through 27). Applicant respectfully notes it is clear error for the Examiner to classify a portable TV monitor as a heads-up display, as a heads-up display is understood in the art as a display that projects information in the user's line of sight, with the information further being presented at perceived distance by the user to minimize the visual re-focusing that the user is required to when switching his/her viewing between the displayed information and the primary visual field of interest. This is completely different from the use of a portable TV monitor. Furthermore, Applicant respectfully asserts that the function of a heads-up display is significantly different than that of a portable TV monitor; as not only is the TV monitor not transparent, a TV monitor does not provide the displayed information to the user with a focus at or near infinity.

The combination of Jacobsen et al. (U.S. Pat. No. 6,198,394; hereinafter "Jacobsen") and Curatolo et al. (U.S. Pat. No. 6,510,380; hereinafter "Curatolo") also

does not teach or suggest the use of a heads-up display, let alone a heads-up display used in connection with a monitoring apparatus, as recited in Claim 1. Jacobsen discloses the use of a wrist sensor/display unit 18 with an LCD display screen 204 for displaying information regarding time and geolocation (see at least Column 9, lines 20-30). Thus, like Ito, the display of Jacobsen is not mounted in the user's line of sight with a focus at or near infinity. Rather, the display is an arm mounted unit that requires the user to re-focus his/her eyes to shift between the displayed information and the primary field of view. With regard to Curatolo, Curatolo deals merely with GPS tracking for items, and does not disclose any type of heads-up display whatsoever.

Secondly, none of the cited references teach or fairly suggest the use of an alarm for when a user has entered an unauthorized area as recited in Applicant's Claim 12. With regard to Ito, the Examiner has admitted that Ito does not teach or suggest an alarm as recited in Applicant's Claim 12 (see p. 6 of Office Action mailed June 6, 2005). Jacobsen does not remedy this shortcoming of Ito as Jacobsen does not teach or suggest whatsoever an alarm arising as a result of entry into an unauthorized area. Rather, Jacobsen discloses that the controller may produce an audible or other alarm (for the soldier) to indicate a problem situation, but no mention or suggestion is made of the alarm being triggered as a result of the soldier's entry into an unauthorized area (see at least Column 11, lines 46 through 50). Furthermore, Applicant respectfully asserts it is clearly erroneous for the Examiner to find the claimed subject matter of the present application obvious based on the mere fact that the prior art could be modified to employ an alarm triggered as a result of entry into an unauthorized area, when both Ito and Jacobsen fail to suggest the desirability or motivation of making such a modification. *In re Fitch*, 972 F.2d 1260, 1266 (Fed. Cir. 1983).

CONCLUSION

It is respectfully submitted that a monitoring apparatus including a heads-up display and an alarm activated upon entry into an unauthorized area is not disclosed or obvious in view of the references cited by the Examiner. The cited references simply do not show or suggest a heads-up display whatsoever, and further do not disclose using an alarm activated upon entry into an unauthorized area in conjunction with such a

monitoring apparatus. Withdrawal of all of the outstanding rejections is thus respectfully requested.

Respectfully submitted,

Dated: February 14, 2006

By: 
Mark D. Elchuk, Reg. No. 33,686
Erica K. Schaefer, Reg. No. 55,861

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

MDE/EKS/lf-s

G:\eschaefe\7784\000300-399\000397\Appeal\Pre-Appeal Statement.doc